

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CHRISTINA L. ALEXANDER,
 Petitioner,

v.

D. K. JOHNSON, Warden,
 Respondent.

Civil No. 12cv1402-BEN (WMc)

ORDER:

(1) DIRECTING CLERK OF COURT TO FILE COPY OF PETITION AS AN ORIGINAL MOTION TO AMEND IN Case No. 12cv1401-BEN (WMc)

(2) DENYING APPLICATION TO PROCEED IN FORMA PAUPERIS AS MOOT; AND

(3) DISMISSING CASE WITHOUT PREJUDICE

Petitioner, a state prisoner proceeding pro se, has submitted a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis. Petitioner currently has a federal habeas petition pending in Case No. 12cv1401-BEN (WMc) in which she challenges the same state court conviction as the Petition filed in this case. (See Pet. filed 6/8/12 in SO.DIST.CA.CIVIL CASE NO. 12cv1401-BEN (WMc) [ECF No. 1] at 1.)

The Clerk of Court is **DIRECTED** to file a copy of the instant Petition as an original Motion to Amend the Petition in SO.DIST.CA.CIVIL CASE NO. 12cv1401-BEN (WMc). See Woods v. Carey, 525 F.3d 886, 890 (9th Cir. 2008) (holding that a new pro se petition challenging the same conviction as a pending petition, which is filed before the first petition is

1 adjudicated, should be liberally construed as a motion to amend the pending petition rather than
2 summarily dismissed as second or successive).

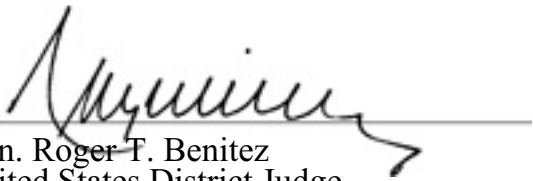
3 Petitioner's Motion to proceed in forma pauperis in this case is **DENIED** as moot, as she
4 has already been granted leave to proceed in forma pauperis in SO.DIST.CA.CIVIL CASE NO.
5 12cv1401-BEN (WMC).

6 This case is **DISMISSED** without leave to amend but without prejudice to Petitioner to
7 proceed with her claims in SO.DIST.CA.CIVIL CASE NO. 12cv1401-BEN (WMC).

8 The Clerk shall close the file.

9 **IT IS SO ORDERED.**

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11 DATED: July 13, 2012

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14 Hon. Roger T. Benitez
United States District Judge

15 Copies to: ALL PARTIES
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